IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 412 OF 2006.
IN
NOTICE OF MOTION NO. 1283 OF 2006
IN
SUIT NO. 1133 OF 2006

Jerome Burnard Lobo and others. ... Appellants.
Versus.
M/s.Fairy Apartment Coop.Housing
Society Ltd. and others. ... Respondents.

Ms.Sumedha Rao for the Appellants.

Shri Bharat Zaveri for Respondent No.1.

Shri Armin Wandrewala i/by M/s.P.M. & Mithi for
Respodnent No.3.

CORAM : KSHITIJ R.VYAS, C.J., &
ABHAY S.OKA, J.

DATE : June 13, 2006.

P.C.:

1. This appeal is directed against the order dated 24th April 2006 passed by the learned single Judge refusing to grant ad-interim relief as prayed in the Notice of Motion. It may, however, be noted that the learned single Judge protected the interest of the Appellant by restraining the Respondents Nos.1, 2 and 3 from disconnecting the water and electricity connections. So far as the other prayers in the Notice of Motion are concerned, the learned single Judge has issued notice to the Respondents with a direction to file their replies. The learned Counsel appearing for the Respondents submitted that this Court may not

interfere in the matter in view of the subsequent development that the building has been demolished and therefore, the prayer made in the Notice of Motion itself does not survive.

2. After having heard the learned Counsel appearing for the parties, we hardly see any reason to interfere with the impugned order at this stage. As regards the subsequent event, the Appellants can either amend the present Notice of Motion or file a fresh Notice of Motion seeking appropriate relief, subject of course to the rights of the otherside to oppose the same. In this view of the matter, we see no merit in the present Appeal. We, therefore, dismiss the same with the observation made above.

CHIEF JUSTICE

ABHAY S.OKA, J.